

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO. 4:07CR42
	§	
TRISTAN STUART LEBEAU (35)	§	

**AMENDED REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on August 26, 2014, to determine whether Defendant violated his supervised release. Defendant was represented by Robert Arrambide. The Government was represented by Ernest Gonzalez.

On October 30, 2007, Defendant was sentenced by the Honorable Richard A. Schell, United States District Judge, to a sentence of 53 months imprisonment followed by a five-year term of supervised release for the offense of conspiracy to possess with intent to distribute heroin. Defendant began his term of supervision on September 3, 2010.

On June 13, 2014, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender Under Supervision (the "Petition") (Dkt. 1868). The Petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall not commit another federal, state or local crime; (2) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any

controlled substances, except as prescribed by a physician; and (3) Defendant shall participate in a program of testing and treatment for drug abuse, under the guidance and direction of the U.S. Probation Office, until such time as Defendant is released from the program by the probation office.

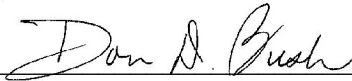
The Petition alleges that Defendant committed the following violations: (1) On October 5, 2012, Defendant was arrested by the Garland Police Department for public intoxication. On October 6, 2012, Defendant received time served and was released from the Garland City Jail. On May 26, 2014, Defendant was arrested by Frisco Police Department for driving while license invalid with previous conviction/suspension without financial responsibility. Defendant posted a \$750 bond and was released from Collin County Detention Center on May 27, 2014; (2) On May 26, 2014, Defendant was arrested by the Frisco Police Department for driving while intoxicated. Defendant posted a \$1,500 bond and was released from Collin County Detention Center on May 27, 2014. On January 6, 2013, Defendant submitted a urine specimen which tested positive for morphine. Defendant admitted verbally and in writing to the use of heroin. On April 8, 2014, Defendant submitted a urine specimen which tested positive for morphine; and (3) Defendant failed to report for random drug testing as scheduled on February 9, 2013, February 13, 2013, March 9, 2013, April 23, 2013, June 6, 2013 and June 11, 2013.

At the hearing, Defendant entered a plea of true to the alleged violations except as to the incidences alleged on May 26, 2014. The Government withdrew the allegation concerning the May 26, 2014 incidences. Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court. The Court finds that Defendant has violated the terms of his supervised release and that his supervised release should be revoked.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments presented at the August 26, 2014 hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of nine (9) months, with no supervised release to follow. The Court further recommends that Defendant's term of imprisonment be carried out in Seagoville FCI, if appropriate.

SIGNED this 3rd day of September, 2014.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE